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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,954	03/26/2004	R. Keith Barker	Barker 035105.00001	9832
27863	7590	09/30/2005	EXAMINER	
MCNAIR LAW FIRM, PA			DOUGLAS, STEVEN O	
P.O. BOX 10827			ART UNIT	
GREENVILLE, SC 29603-0827			PAPER NUMBER	

3751

DATE MAILED: 09/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/810,954

Applicant(s)

BARKER, R. KEITH

Examiner

Steven O. Douglas

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 03262004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1, 2, 4, 8, 9 and 20-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Comer'501 et al.

The Comer'501 et al. reference discloses a fuel dispensing system (see Fig. 3 and 1) for remote locations comprising a fuel dispenser 50 with plural nozzles and a canopy with solar panels 115, credit card payment kiosk (i.e. the use of such Kiosk implies a users enrollment to use the designated fuel dispenser and includes an implied consent to accept liability associated with the use of such dispenser), video imagery 75, fire and smoke detection and a sprinkler systems (not shown, see col. 6, line 3).

In regard to claim 2, it is implied that any attendant would have access to local fire, police and emergency medical services.

In regard to claims 1, 2, 4 and 20-23, the method as claimed would be inherent during normal use and operation of the device.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3,6,7,14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Comer et al. in view of Bartlett'814 et al., and Struthers et al.

The Comer et al. reference discloses a fuel dispensing system (supra), but does not disclose fuel vapor, impact and carbon monoxide detectors. The Bartlett et al. reference discloses another fuel dispenser having vapor/carbon monoxide detectors 34 and the Struthers reference discloses another dispenser having an impact detector 30 for detecting hazardous conditions and prevent a catastrophic condition. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Comer et al. system to have fuel vapor, impact and carbon monoxide detectors in view of the teachings of the Bartlett et al. and Struthers et al. references for detecting hazardous conditions and prevent a catastrophic condition.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Comer et al. in view of Webb'790.

The Comer et al. reference discloses a fuel dispenser (supra) , but does not disclose the fire suppressant chemicals/water being provided in the canopy. The Webb reference discloses another fuel dispenser having fir suppressant chemicals/water located in its canopy for the implied reason of being disposed above an area in which a fire may occur. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to dispose the Comer et al. fire suppressant system in the

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canopy (if not already) in view of the implied teachings of the Webb reference to be disposed above an area in which a fire may occur.

Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Comer et al. in view of the Minerva S860 (cited by Applicant).

The Comer et al. reference discloses a fuel dispenser (supra) , but does not disclose the fire (i.e. flame) detector as being a solar blind, narrow wave length detector-type flame detector. The Minerva S860 reference discloses a flame detector being of the solar blind, narrow wave length detector-type used in gasoline environments. It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute a solar blind, narrow wave length detector-type flame detector as, for example, shown by Minerva for the broadly disclosed flame detector of Comer et al. wherein so doing would amount to the mere substitution of one type flame detector for another within the same art field.

Claims 13 and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Comer et al. in view of Hartsell'299 Jr.

The Comer et al. reference discloses a fuel dispenser (supra) including a wireless telephone 105, but does not disclose the phone as having a two-way speaker phone capabilities. The Hartsell Jr. reference discloses another fuel dispenser having a phone with two-way speaker phone capabilities (see col. 8, lines 22-30) that facilitates hands-free use of the communication system. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the phone of Comer

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et al. to have two-way speaker phone capabilities (if not already) in view of the teachings of the Hartsell Jr. reference to facilitate hands-free use of the communication system.

In regard to claim 17, any agency that monitors the operation of the Comer et al. system may or may not be a security agency by definition and any contract associated with such monitoring may take the form of either verbal or written form. Accordingly, such a limitation is implied or inherent in nature.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven O. Douglas whose telephone number is (571) 272-4885. The examiner can normally be reached on Mon-Thurs 6:00-6:30.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Steven O. Douglas
Primary Examiner
Art Unit 3751

SD
9-28-05